

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 2**

**SIREN RETAIL CORP. D/B/A STARBUCKS¹
Employer**

and

(b) (6), (b) (7)(C)

Case 02-RD-317733

Petitioner

and

**NEW YORK - NEW JERSEY REGIONAL
JOINT BOARD, WORKERS UNITED,
AFFILIATED WITH SERVICE
EMPLOYEES INTERNATIONAL UNION²
Union**

**ORDER TO SHOW CAUSE AND
ORDER INDEFINITELY POSTPONING HEARING**

On May 10, 2023, (b) (6), (b) (7)(C) (“Petitioner”) filed a petition seeking to decertify New York – New Jersey Regional Joint Board, Workers United a/w Service Employees International Union (“Union” or “Workers United”) as the exclusive collective-bargaining representative of the following unit of employees employed by Siren Retail Corp. d/b/a Starbucks (“Employer”) at its facility named “The New York Roastery,” which is located at 61 9th Ave., New York, NY 10011.

Including all full-time and regular part-time Baristas, Mixologists, Ops Leads, and Bakers; excluding all store managers, office clericals, confidential employees, managerial employees, guards, professional employees and supervisors as defined by the Act, and all other employees.

There is a dispute as to whether a question concerning representation may be raised at this time. The procedural background of this matter is set forth in the following paragraphs.

1. On April 12, 2022, the Region Director of Region 2 in Case No. 02-RC-290354 certified the Union as the exclusive collective-bargaining representative of the above unit.

¹ The caption of the instant case has been corrected to reflect the correct name of the Employer.

² The proper name of the Union has been employed herein.

2. On October 4, 2022, the Regional Director of Region 19 issued Orders Severing Case and Further Consolidating Cases, Amended Further Consolidated Complaint and Notice of Hearing in cases 19-CA-294579 et al., alleging that the Employer violated Section 8(a)(1) of the Act by promising benefits to employees in stores that had not sought union representation. The Regional Director also alleged that the Employer violated Section 8(a)(3) and (1) of the Act by withholding benefit improvements and wage increases from employees at unionized stores including The New York Roastery, while granting those benefits to stores where employees had not sought representation.
3. On April 25, 2023, the Regional Director of Region 19 issued an Order Consolidating Cases, Consolidated Complaint and Notice of Hearing in cases 01-CA-305952 et al., alleging, inter alia, that the Employer violated Section 8(a)(5) and (1) of the Act by failing and refusing to provide and/or delaying in providing the Union with dates for initial first contract bargaining sessions at The New York Roastery and refusing to meet and bargain with the Union for a first contract at the New York Roastery.
4. On May 10, 2023, the Petitioner filed the instant decertification petition.

Under Section 9(c)(1) of the Act, a prerequisite to conducting a representation election is the existence of a question concerning representation. Based on the above, there are substantial and material issues of fact and law as to whether further processing of the petition is warranted. Accordingly,

IT IS HEREBY ORDERED that any party hereto provide written cause of its legal position and argument as to whether the instant petition warrants further processing. Any submission should be accompanied by supporting documentary evidence and cite relevant and applicable legal authority. More specifically, the parties' submissions in response to this Order should address the following matter:

Whether the instant petition should be dismissed, subject to reinstatement, based on the unfair labor practices found in cases 19-CA-294579 *et al.*, and 01-CA-305952 *et al.* See generally *Rieth-Riley Construction Co.*, 371 NLRB No. 109 (2022). More specifically, whether the unfair labor practices alleged in these complaints, which include allegations that the Employer unlawfully refused to bargain with the Union, if proven, would require the remedy of a bargaining order and extension of the certification year thereby precluding the existence of a question concerning representation. See *Big Three Industries*, 201 NLRB 197 (1973); *Brannan Sand & Gravel*, 308 NLRB 922 (1992); NLRB Casehandling Manual Part II, Representation Proceedings, Sections 11733.1(a)(2), 11733.1(a)(3) and 11730.3(b). Further, whether the unfair labor practices alleged in these complaints, 03-CA-295810 et al., 19-CA-294579 et al., and 01-CA-305952 et al., if proven, would have caused the employee disaffection underlying the decertification petition. See *Master Slack Corp.*, 271 NLRB 78, 84 (1984).

All submission to this Order must be received by this office by **5:00 p.m. on Thursday, June 1, 2023**. Copies of such submissions should be simultaneously served on all other parties to this case.

IT IS FURTHER ORDERED that, pending determination as to the appropriateness of further processing of this petition, that the respective deadlines for submission of Statements of Position and Responsive Statements of Position are hereby postponed indefinitely.

IT IS FURTHER ORDERED that, pending determination as to the appropriateness of further processing of this petition, that the hearing in this matter, currently scheduled to begin on May 31, 2023, is hereby postponed indefinitely.

New York, NY
Dated: May 18, 2023

A handwritten signature in black ink that reads "John D. Doyle, Jr." with a stylized flourish at the end.

John D. Doyle, Jr.
Regional Director
National Labor Relations Board, Region 2
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